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OAKLEY, INC.
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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE SOUTHERN DISTRICT OF CALIFORNIA
12

13 OAKLEY, INC., a Washington corporation,

14 Plaintiff,

15 v.

16 HIRE ORDER, LTD., d/b/a
17 HANDSFREEVIDEO.COM, a Virginia
corporation, and GLOBAL ONE SALES AND
18 DISTRIBUTION SPORTSMAN EYEWEAR,
LLC, a Pennsylvania company.

19 Defendants.
20

'12CV2346 CAB MDD

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 Plaintiff Oakley, Inc. ("Oakley") hereby complains of Defendants Hire Order, Ltd.,
2 d/b/a Handsfreevideo.Com ("Hire Order") and Global One Sales And Distribution Sportsman
3 Eyewear, LLC ("Global One") (collectively, "Defendants") and alleges as follows:

4 **I. JURISDICTION AND VENUE**

5 1. This Court has subject matter jurisdiction over this action pursuant to 28
6 U.S.C. § 1331 and 1338, as it arises under the patent laws of the United States.

7 2. This Court has personal jurisdiction over Defendants because Defendants have
8 a continuous, systematic, and substantial presence within this judicial district including by
9 selling and offering for sale infringing products for sale in this judicial district, and by
10 committing acts of patent infringement in this judicial district, including but not limited to
11 selling infringing eyewear directly to consumers and/or retailers in this district and selling
12 into the stream of commerce knowing such products would be sold in California and this
13 district, which acts form a substantial part of the events or omissions giving rise to Oakley's
14 claim.

15 3. Venue is proper in this judicial district under 28 U.S.C. § 1391 (b) and (c), and
16 28 U.S.C. § 1400(b).

17 **II. THE PARTIES**

18 4. Plaintiff Oakley is a corporation organized and existing under the laws of the
19 State of Washington, having its principal place of business at One Icon, Foothill Ranch,
20 California 92610.

21 5. Plaintiff is informed and believes, and thereon alleges, that Defendant Hire
22 Order is a corporation organized and existing under the laws of the state of Virginia and has a
23 principal place of business at 59 Kite Place, Waynesboro, Virginia 22980.

24 6. Plaintiff is informed and believes, and thereon alleges, that Defendant Global
25 One is a company organized and existing under the laws of the state of Pennsylvania and has
26 a principal place of business at 6447 William Penn Highway, Alexandria, Pennsylvania
27 16611.

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1 7. Oakley is informed and believes, and thereon alleges, that Defendants have
2 each committed the acts alleged herein within this judicial district.

3 **III. GENERAL ALLEGATIONS**

4 8. Oakley has been actively engaged in the manufacture and sale of high quality
5 eyewear since at least 1985. Oakley is the manufacturer and retailer of several lines of
6 eyewear that have enjoyed substantial success and are protected by various intellectual
7 property rights owned by Oakley.

8 9. On June 20, 2006, the United States Patent and Trademark Office duly and
9 lawfully issued United States Design Patent No. D523,461 ("the D461 patent"), entitled
10 "EYEGLASS COMPONENT." Oakley is the owner by assignment of all right, title, and
11 interest in the D461 patent. A true and correct copy of the D461 patent is attached hereto as
12 Exhibit A.

13 10. Defendants manufacture, use, sell, offer for sale and/or import into the United
14 States eyewear that infringe Oakley's intellectual property rights.

15 11. Defendants were each provided written notice of Oakley's proprietary rights in
16 the D461 patent in separate letters, each dated June 22, 2011, which are attached hereto as
17 Exhibits B and C, respectively.

18 **IV. CLAIM FOR RELIEF**

19 **(Patent Infringement)**
20 **(35 U.S.C. § 271)**

21 12. Oakley repeats and re-alleges the allegations of paragraphs 1-11 of this
22 complaint as if set forth fully herein.

23 13. This is a claim for patent infringement under 35 U.S.C. § 271.

24 14. Defendants, through their agents, employees and servants, have, and continue
25 to, knowingly, intentionally and willfully infringe the D461 patent by making, using, selling,
26 offering for sale and/or importing eyewear that are covered by the claim of the D461 patent,
27 including Defendants' *Sportsman Eyewear* video recording system.

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1 15. Defendants' acts of infringement of the D461 patent were undertaken without
2 permission or license from Oakley. Defendants had actual knowledge of the D461 patent and
3 acted despite an objective likelihood that their actions constituted infringement of the D461
4 patent. Defendants' actions constitute willful and intentional infringement of the D461
5 patent.

6 16. As a direct and proximate result of Defendants' infringement of the D461
7 patent, Defendants have derived and received gains, profits, and advantages in an amount not
8 presently known to Oakley.

9 17. Pursuant to 35 U.S.C. § 289, Oakley is entitled to Defendants' total profits
10 from Defendants' infringement of the D461 patent.

11 18. Pursuant to 35 U.S.C. § 284, Oakley is entitled to damages for Defendants'
12 infringing acts and treble damages together with interests and costs as fixed by this Court.

13 19. Pursuant to 35 U.S.C. § 285, Oakley is entitled to reasonable attorneys' fees
14 for the necessity of bringing this claim.

15 20. Due to the aforesaid infringing acts, Oakley has suffered great and irreparable
16 injury, for which Oakley has no adequate remedy at law.

17 21. Defendants will continue to directly and/or indirectly infringe the Asserted
18 Patents to the great and irreparable injury of Oakley, unless enjoined by this Court.

19 **WHEREFORE**, Oakley prays for judgment in its favor against Defendants for the
20 following relief:

21 A. An Order adjudging Defendants to have willfully infringed the D461 patent
22 under 35 U.S.C. § 271;

23 B. A preliminary and permanent injunction enjoining Defendants, their respective
24 officers, directors, agents, servants, employees and attorneys, and those persons in active
25 concert or participation with Defendants, from infringing the D461 patent in violation of 35
26 U.S.C. § 271;

27 C. That Defendants account for all gains, profits, and advantages derived by
28 Defendants' infringement of the D461 patent in violation of 35 U.S.C. § 271, and that

1 Defendants pay to Oakley all damages suffered by Oakley and/or Defendants' total profits
2 from such infringement;

3 E. An Order for a trebling of damages and/or exemplary damages because of
4 Defendants' willful conduct pursuant to 35 U.S.C. § 284;

5 F. An Order adjudging that this is an exceptional case;

6 G. An award to Oakley of the attorneys' fees and costs incurred by Oakley in
7 connection with this action pursuant to 35 U.S.C. § 285;

8 H. An award of pre-judgment and post-judgment interest and costs of this action
9 against Defendants;

10 I. That Oakley have and recover the costs of this civil action, including
11 reasonable attorneys' fees.

12 J. An award of pre-judgment and post-judgment interest and costs of this action
13 against Defendants;

14 K. Such other and further relief as this Court may deem just and proper.
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16 Respectfully submitted,

17 KNOBBE, MARTENS, OLSON & BEAR, LLP
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19 Dated: September 25, 2012

By: s/Ali S. Razai

20 Michael K. Friedland
21 Paul N. Conover
22 Ali S. Razai

23 Attorneys for Plaintiff
24 OAKLEY, INC.
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DEMAND FOR JURY TRIAL

Plaintiff Oakley, Inc. hereby demands a trial by jury on all issues so triable.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: September 25, 2012

By: s/Ali S. Razai

Michael K. Friedland

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